UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1999/8
16 March 1999

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 3 of the provisional agenda

ORGANIZATION OF THE WORK OF THE SESSION

Report of the United Nations High Commissioner for Human Rights on the Office in Colombia

CONTENTS

		Paragraphs	Page
Introduction		1 - 6	3
I.	ACTIVITIES OF THE OFFICE	7 - 18	4
II.	VISIT BY THE HIGH COMMISSIONER TO COLOMBIA	19 - 26	6
III.	NATIONAL CONTEXT	27 - 32	7
IV.	SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW	33 - 132	9
	A. Civil and political rights	41 - 66	10
	B. Economic, social and cultural rights	67 - 81	16
	C. Women's rights	82 - 85	19
	D. Rights of the child	86 - 90	19
	E. Ethnic minorities	91 - 94	20
	F. Displaced persons	95 - 101	20
	G. Human rights advocates, trade unionists and journalists	102 - 107	22
	H. Main breaches of international humanitarian law	108 - 132	23
V.	FOLLOW-UP OF INTERNATIONAL RECOMMENDATIONS	133 - 148	26
VI.	CONCLUSIONS	149 - 163	29
VII.	RECOMMENDATIONS	164 - 181	32

List of abbreviations

ACCU	Peasant Self-Defence Groups, Córdova and Urabá
AUC	United Self-Defence Groups of Colombia
CCA	Common Country Assessment
CODHES	Consultoría para los Derechos Humanos y el Desplazamiento (Advisory Office for Human Rights and Displacement)
CTI	Technical Investigation Unit of the Office of the Procurator-General
CUT	Trade Union Confederation
DANE	National Administrative Statistics Department
DNP	National Planning Department
ELN	National Liberation Army
EPL	Patriotic Liberation Army
FARC	Revolutionary Armed Forces of Colombia
FASOL	Solidarity Fund between German Judges and Colombian Judges Victims of Violence - Judicial Branch
GDP	Gross domestic product
IACHR	Inter-American Commission on Human Rights
ICBF	Colombian Family Welfare Institute
ICRC	International Committee of the Red Cross (Colombia)
IDHC	Human Development Report for Colombia
ILO	International Labour Organization
INPEC	National Penitentiary and Prison Institute
NGO	Non-governmental organization
PAHO	Pan-American Health Organization
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
USO	Workers' Trade Union

INTRODUCTION

1. The Commission on Human Rights has been following the human rights situation in Colombia with concern for several years. Thus, in 1996, 1997 and 1998, statements were made by the Chairman of the Commission indicating concern about the situation of endemic violence in Colombia, drawing attention to serious human rights problems and recognizing the efforts that the Government was making in the field of human rights. In 1996, the Commission on Human Rights requested the Office of the United Nations High Commissioner for Human Rights to establish an office in Colombia pursuant to the invitation by the Government of Colombia.

2. The Office of the United Nations High Commissioner for Human Rights in Colombia was established on 26 November 1996 under an agreement signed by the then Minister for Foreign Affairs of Colombia and the then United Nations High Commissioner for Human Rights. Under the terms of that agreement, the Office is to monitor the human rights situation in order to advise the Colombian authorities on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights in the context of violence and internal armed conflict in the country and to enable the High Commissioner to submit analytical reports to the Commission on Human Rights.

3. At the fifty-fourth session of the Commission on Human Rights (1998), its Chairman stated that the Commission "considers the work the Office has been carrying out to promote respect for human rights to be of the greatest importance, as it may help promote reconciliation among Colombians and the search for peace. It is of the opinion that the Office is performing a vital role in bringing the human rights situation in Colombia into focus". It also "requests the High Commissioner for Human Rights to submit a detailed progress report to it at its fifty-fifth session containing the Office's analysis of the human rights situation in Colombia, in accordance with the provisions of the agreement between the Government of Colombia and the High Commissioner on the operation of the Permanent Office in Bogotá".

4. The agreement, which was originally intended for a period of 17 months, was extended, by an exchange of letters, until April 2000. In March 1998, an additional agreement was signed, increasing the number of human rights officers to 12 and expressly providing for the submission of confidential reports to member countries, international organizations and the International Committee of the Red Cross (ICRC).

5. The Office in Colombia has been working uninterruptedly for nearly two years with the Colombian authorities, national and foreign non-governmental organizations, representatives of civil society, ICRC and United Nations agencies for the purpose not only of preventing and reporting human rights violations, but also of providing specific solutions designed to improve the human rights situation. As its mandate indicates, the Office has made the information it has collected in connection with its activities available to the various United Nations mechanisms. It is also monitoring compliance with the recommendations of human rights organizations by making specific recommendations for their implementation.

6. The present report deals with the period between January and December 1998.

I. ACTIVITIES OF THE OFFICE

7. In order to fulfil the broad mandate contained in the agreement with the Government of Colombia, the Office has undertaken a number of related activities. In view of the limited resources available, it has had to make good use of them and to prioritize areas of action. The contacts and networks established to obtain reliable information on the human rights situation have been of fundamental importance in helping to channel assistance. In this connection, the Office held discussions with the competent government bodies, civilian and military authorities, organizations of civil society and individuals, members of the diplomatic corps, international organizations, agencies of the United Nations system and ICRC.

8. In carrying out its monitoring functions, the Office has continued to receive complaints from individuals, non-governmental organizations and government agencies. These complaints were received at the Bogotá Office and during many trips to various parts of the country. Following verification, many of them were transmitted to the Government for the necessary action, in accordance with the agreement. From January to November 1998, altogether 882 complaints were received, 747 of which were accepted, while another 155 were considered inadmissible. Of 482 complaints relating to incidents which occurred in 1998, the majority were complaints of violations of the right to life. It should be pointed out, however, that the number of cases to which the complaints received by the Office relates is far from reflecting the real seriousness of the situation in Colombia with regard to violations of human rights and breaches of international humanitarian law.

9. In an effort to help prevent human rights violations, the Office also transmitted information to the Government on massacres which had been reported. The Office took part in the working group on the investigation and prevention of massacres, which is being coordinated by the Office of the People's Advocate and whose aim is specifically to prevent massacres and to alert the authorities responsible for public security. Unfortunately, the transmission of this information has not led to effective action and the massacres have continued to go unpunished.

10. In view of the magnitude and intensification of displacement in Colombia, the Office has made considerable efforts to monitor and follow up the situation by communicating its concerns to the Government and taking preventive and protection measures for displaced persons. Together with various United Nations agencies, the Office is also taking part in an inter-agency working group on displacement and is encouraging the implementation of early warning systems. In this connection, the Office has taken part in round tables, at which displaced persons and the Government have been represented, in order to monitor the implementation of agreements reached. It has held many working meetings with NGOs, groups of displaced persons and cooperation agencies, at which possible prevention and protection measures were analysed.

11. The most relevant activities carried out by the Office as part of its advisory functions related to the follow-up of the bills on the reform of the Military Penal Code and on enforced disappearance. In cooperation with NGOs, it took part in round tables to study these bills in depth. It has also provided advice and sponsored a project for the design and implementation of a new teaching module for human rights training for law enforcement officials, which has the support of UNDP (United Nations Development Programme).

12. Many NGOs and organizations of civil society have received support and advice from the Office for the formulation and implementation of projects, particularly in the area of assistance to displaced persons. Advice was also given to the NGO which represents the families of the victims of the violent incidents in Trujillo, a case which is being settled amicably in connection with case No. 11.007 being heard by the Inter-American Commission on Human Rights (IACHR) as a result of the 1989-1990 massacre. The Office also provided advisory services to civil society on the topics of human rights and peace, which are of particular significance at the present time.

13. The Office continued to take part in the work of the Commission for Analysis and Advice on the Implementation of the Recommendations of International Human Rights Bodies (1290 Commission), in which it put forward the point of view of United Nations bodies and special mechanisms, as well as its own comments and recommendations on military justice, regional justice, enforced disappearances, forced displacement, vigilante and private security services, the phenomenon of paramilitarism and the situation of human rights advocates, inter alia.

14. The Office took part in forums, seminars, conferences, round tables, working meetings and workshops on topics related to the protection of human rights, international humanitarian law and peace and development intended for broad sectors of civil society and various government bodies.

15. The cooperation projects promoted by the Office in 1998 involved giving support to the Technical Investigation Unit of the Office of the Procurator-General by providing two months of financing for two experts from the Argentine Forensic Anthropology Team, who took part in and worked on the exhumation and laboratory analysis of the remains of the unidentified victims of the events which occurred on 6 and 7 November 1985 at the Law Courts of the city of Bogotá.

16. In accordance with the "additional agreement on reports and the number of professionals in the Office", concluded in March 1998 between the Government of Colombia and the Office of the High Commissioner, the Colombia Office has been submitting a monthly activity report containing the relevant comments of the Government of Colombia.

17. The Colombia Office issued 17 public statements and gave some 30 interviews to national and foreign media.

18. In 1999, the Office hopes to increase its technical cooperation activities in order to provide support for projects to promote and protect human rights at the national level. The cooperation of the authorities, national institutions, non-governmental organizations and Colombians in

general will be essential. The cooperation of the international community will also be sought in order to carry out specific projects, which not only benefit Colombian society directly, but also give it the necessary tools for its development.

II. VISIT BY THE HIGH COMMISSIONER TO COLOMBIA

19. The High Commissioner for Human Rights visited Colombia from 20 to 22 October 1998. The visit had three objectives: (a) to visit the Office in Colombia, (b) to hold talks with the authorities, local and international non-governmental organizations, United Nations agencies in Colombia, ICRC and the diplomatic corps, and (c) to open two seminars, one on the administration of justice in the Andean region, and the other on the protection of human rights advocates. During the first seminar, a memorandum of understanding was signed with the Andean Commission of Jurists to broaden activities for the promotion of human rights.

20. During the three days the High Commissioner spent in Bogotá, she held working meetings with the President of the Republic, the Vice-President, who is in charge of human rights, the Minister for Foreign Affairs, the Minister of Defence, the High Commissioner for Peace, the Procurator-General and the Deputy Procurator-General, the Attorney-General, the People's Advocate, the President of the Supreme Judicial Council and the President of the Senate.

21. During all these meetings, the High Commissioner had an opportunity to express concern about serious human rights problems and, in particular, about the serious situation of displaced persons, the existence and activities of paramilitary groups, the precarious situation of human rights advocates, irregularities in the system of regional and military justice, the delay in the adoption of the Military Penal Code and the bill criminalizing enforced disappearance, and the need to ratify the treaty establishing the International Criminal Court. The High Commissioner reminded the Government of Colombia that specific recommendations on each of these questions had been prepared by various United Nations mechanisms and that their implementation would help improve the human rights situation.

22. Particular emphasis was placed on the need for the adoption of a human rights plan of action, in accordance with what was decided at the 1993 Vienna Conference on Human Rights, in which Colombia took part. Although the importance of the peace efforts being made by the Government of Colombia was recognized, it was pointed out that peace cannot be dissociated from the problem of human rights and the right to development. It was suggested that the question of human rights and the right to development should be part of the agreements reached during the peace negotiations. The Colombia Office's cooperation was offered for the formulation of the plan of action. The Government of Colombia was very receptive to this proposal.

23. During the High Commissioner's visit, she also held meetings with representatives of local and international non-governmental organizations in Colombia, representatives of trade unions, representatives of demobilized guerrilla groups and representatives of civil society (Mandate for Peace and National Peace Commission), at which she had an opportunity to hear their concerns and requests, which were duly transmitted to the Colombian

authorities. During her meetings with the Colombian authorities, particularly with the President, the Minister of Defence and the Attorney-General, the High Commissioner requested that measures of protection for persons at risk should be strengthened and emphasized the need for public support for non-governmental organizations working in the field of human rights. She also requested that progress should be made on the review of the reports prepared by army intelligence Brigade XX, now being conducted by the Attorney-General.

24. The High Commissioner had working meetings with United Nations agencies, the World Bank and representatives of the diplomatic corps accredited in Colombia, in which they all expressed support for the work of the Colombia Office. Such support is fundamentally important, since it will enable the Office to carry out its activities pursuant to its mandate, thereby avoiding duplication of effort and contributing wherever necessary.

25. During her visit, the High Commissioner witnessed the atmosphere of violence in which people in Colombia live. Only a few hours after she arrived, she was told about the Machuca massacre, in which about 70 persons, including women and children, died in an attack by members of the National Liberation Army (ELN) on a pipeline in the north-western part of the country. On the day after the High Commissioner made a statement at a seminar in which various human rights organizations from the American continent took part, she was informed that there had been a bomb threat by unknown persons. She went to the place where the seminar was being held and, in the presence of the press, condemned that act of intimidation. A third unfortunate event was the murder of trade union leader Jorge Ortega by unknown persons in front of his house in Bogotá, just when a workers' strike had been called. Once again, the High Commissioner thought it would be appropriate to go to the trade union office to express her condolences and condemn the murder. She was warmly received by the workers and representatives of the church and non-governmental organizations who were present, who told her how precarious the security situation was.

26. The visit to Colombia was positive because it enabled the High Commissioner to take a first-hand look at the situation in the country and to hold useful conversations with national and international personalities, thus opening up and strengthening channels of communication and coordination and strengthening ties of cooperation. It also enabled her to become acquainted with the activities of the Colombia Office on the spot, witness the untiring efforts its staff are making, find out what its limitations and frustrations are in such an overwhelming situation and confirm the need to support them even more in their work. She transmitted her concerns to the Government and obtained an undertaking from it to give human rights the attention which they deserve and which Colombia needs. The High Commissioner thanked the Government of Colombia for the support it had given her during her short but fruitful stay, as well as for its receptive attitude to her messages.

III. NATIONAL CONTEXT

27. The Republic of Colombia is constitutionally defined as a unitary, decentralized and autonomous State, which has a republican system of government and whose legal and political organization is based on respect for human dignity. Power in Colombia is exercised by three branches: the

legislature, the executive and the judiciary. The military forces and the national police force make up the security forces of the Colombian State. Although the national police force is constitutionally defined as a civilian body, its members are, according to the Constitution, subject to the same military criminal jurisdiction as members of the Army, the Air Force and the Navy (see document E/CN.4/1998/16).

28. There were two major political issues in 1998: the elections and the efforts by the Government and civil society to establish a dialogue with the armed opposition groups on peace, leading to the definitive cessation of the internal armed conflict that has been afflicting the country for over 40 years.

29. Elections to renew the Colombian Congress were held on 8 March 1998 in a relatively calm atmosphere, although isolated acts of violence did occur. Disturbances of public order were reported in 82 of the country's 1,072 municipalities and, in the majority of these incidents, guerrilla fighters of the so-called Revolutionary Armed Forces of Colombia (FARC) rebel group were said to be responsible. The presidential election was held from 31 May to 21 June in two rounds of voting without any serious disturbance of public order. Andrés Pastrana Arango was elected President of the Republic with 50.5 per cent of the votes and took office on 7 August.

30. From 12 to 15 July, representatives of the guerrilla group, the National Liberation Army (ELN), and various sectors of Colombian civil society held a meeting in the Himmelpforten Monastery near Mainz in Germany. The meeting ended with the signing of a document entitled "Puerta del Cielo Agreement", in which the signatories agreed to start a peace process, adopt measures to make the war more humane and convene a national convention whose meetings would begin on 13 February 1999. The convention is to lay the foundations for a political agreement which will lead to reforms designed to democratize the Government and society.

31. In July, President-elect Andrés Pastrana met with members of the FARC National Secretariat. The purpose of the meeting was to explore ways of carrying on a fruitful dialogue with this insurgent group. It was agreed that five towns had to be cleared so that a negotiating table and a dialogue could be set up during the new Government's first 90 days. In October, the Government recognized the political nature of the ELN and the FARC. It nevertheless warned that such recognition did not mean granting these two guerrilla groups belligerent status. FARC proposed to the Government that members of the security forces in guerrilla hands should be exchanged for guerrillas detained in Colombian jails. Some of these guerrillas are awaiting trial and others are serving sentences, some of which were imposed for the commission of offences constituting breaches of international humanitarian law. At the time of writing of the present report, the authorities had not adopted any decision in this regard.

32. On 7 November, in accordance with the agreement between the Government and FARC, government armed forces left the towns of La Macarena, Vistahermosa, La Uribe, Mesetas and San Vicente del Caguán. Within days, these towns were occupied by the guerrilla forces, which nevertheless stated that they recognized the authority of the incumbent mayors. The fact that there were

disarmed soldiers at the San Vicente del Caguán military base caused a delay in the start of the talks between the Government and FARC. The setting-up of the negotiating table was scheduled for 7 January 1999.

IV. SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

33. Massacres with clear signs of extrajudicial executions, torture, forced disappearances and forced displacements occurred systematically throughout 1998. With regard to conduct forbidden by international humanitarian law, there were numerous cases of murders of protected persons, torture, taking of hostages, attacks on the civilian population and forced displacements, which followed a systematic pattern. The deterioration of the human rights situation is the result of the worsening of the armed conflict and the failure by the Government to implement effective legislative, administrative and other measures, such as those intended to combat paramilitary activity and impunity or to protect human rights advocates.

34. The civilian population has been increasingly affected as a result of the intensification of the armed conflict. This has led to large-scale displacements of people, who have lost many of their civil, political, economic, social and cultural rights as a consequence. At the same time, there has been a noticeable, generalized degradation of the conditions prevailing in the armed conflict. The responsibility for this lies mainly with the guerrilla and paramilitary groups, which are resorting to terror tactics to consolidate and extend their territorial domains.

35. According to the Office's observations, the failure by the main rebel organizations, namely the FARC, the ELN and the EPL (Popular Liberation Army), to meet humanitarian standards has persisted.

36. In many places, such as Dabeiba and Vigía del Fuerte (Antioquia), Southern Bolívar, Tolima, San José de Guaviare, Rionegro (Santander) and Carmen de Atraco (Chocó), the Colombia Office observed, either directly or through first-hand information, that, despite the complaints filed by it and by other governmental and non-governmental organizations, collusion between the paramilitaries and the security forces or civilian authorities had been continuing, in some cases for over a year. In most of the cases reported by the Office to the Government, no information has been received on the progress of the investigations and remedial measures. On the basis of its own observations, statements by the paramilitary groups themselves and discussions with independent experts, the Office has concluded that the paramilitary groups are not working against the Government and that many of their activities take place in conjunction with sectors of the security forces and some civilian bodies. Action by the security forces against the paramilitary groups has been occasional and is not in proportion to the participation of these groups in serious violations of human rights. Signs of the lack of willingness to combat the paramilitary groups effectively include the fact that the location of many of their assembly and training sites is public knowledge on the part of the population and the authorities. 1/ Although many of these places are also known to the Office of the Procurator-General, the latter cannot intervene because it does not have the necessary support from the security forces (police and army). There were also further reports that helicopters were used by the paramilitary groups to spread propaganda and

conduct combat operations, for example in southern Bolívar in November 1998. There is no explanation of how these many flights can elude air traffic control, which is very strict in Colombia.

37. The government body which was the most energetic in trying to carry out its constitutional function of bringing the members of paramilitary groups to justice was the Office of the Procurator-General. In 1998, important arrests were made of persons involved in the establishment of paramilitary groups. 2/ In 1998, 418 persons involved in paramilitary activities were arrested in the country, according to an official report by the Office of the Procurator-General of the Nation. Of these persons, 82 belong to the security forces and have been criminally charged for this offence. The Technical Investigation Unit of the Office of the Procurator-General arrested 125 persons, the Army arrested 81 and the police 212. The courts have sentenced 36 persons for paramilitarism.

38. The Special Vigilante and Private Security Services, formerly known as "Convivir" associations, continued their activities, but with a much lower profile than in the previous year. In late August, the National Confederation of Convivir Associations publicly announced the disbanding of 300 "Convivir", but this could not be confirmed by the Office of the Superintendent of Vigilante and Private Security Groups.

39. The Colombia Office also received information on violations of human rights, for which members of the military forces and the police were said to be responsible.

40. The increase in violence, the deterioration of the human rights situation in the armed conflict, the expansion of paramilitarism, the disregard for international humanitarian law on the part of both the guerrilla and the paramilitary forces, the attacks on human rights advocates, the worsening internal displacement situation, widespread impunity, the serious prison crisis and the precarious situation of the most vulnerable population groups together make up a sombre picture which reflects the gravity of the human rights situation in Colombia.

A. Civil and political rights

1. Right to life

41. During the period covered by the report, the Colombia Office received 210 complaints, 125 relating to individual and collective summary executions, 17 to attempted executions and 18 to death threats. Violations of the right to life took the form of extrajudicial executions, some of which were of a political nature, while others were intended as intimidation or were carried out against socially stigmatized persons. A large number of murders took the form of massacres.

42. Political executions primarily affected persons whose actual or alleged circumstances, ideology, activity, origin or relationships were invoked by those responsible for their death as serious indicators that they supported, assisted or sympathized with the insurgency. These executions were usually carried out selectively, with the victims being chosen in advance, not

infrequently through the use of lists that made it possible to identify them from among a group of persons placed in circumstances of defencelessness or inferiority. 3/

43. Executions for purposes of intimidation were characterized by their indiscriminate nature. Men, women and children lost their lives solely because their death was intended to terrorize the inhabitants of the area and bring about forced displacement. In such cases, it was impossible to establish a link between the persons who were eliminated by violent means and any reason that could be invoked by those responsible for murdering them for political reasons.

44. The executions of socially stigmatized persons were based on prejudice and discrimination. In towns and villages alike, the persons responsible for these murders were carrying out insane "social cleansing" campaigns.

45. The victims of the three types of violations of the right to life include persons from the widest range of social and economic conditions, such as peasants, workers, tradespeople, public servants, judicial officials, trade unionists, community leaders, religious ministers, journalists, human rights defenders, social workers, health workers, members of indigenous and Afro-Colombian communities, former guerrillas reinstated in civilian life and members of marginal sectors (indigent persons, street dwellers, homeless children, drug addicts, pushers, prostitutes, former convicts and petty thieves).

46. The massacres were concentrated primarily in the departments of Antioquia, Meta, Bolívar and Santander. Most of them were the work of paramilitary groups which enjoyed full freedom of action to carry them out, although, in some cases, the killing was feared and announced by the people in the area, by the civilian authorities themselves and even by the Colombia Office. 4/

47. Quite a few of the violations to the right to life showed clear signs of being extrajudicial executions, since the killings were done by persons who acted with premeditation, without any justification under criminal law and for punitive purposes, abusing their public functions in some cases and, in others, acting in obvious collusion with government officials, with their logistical support or, at the very least, with their tacit backing.

48. In some cases, the military and police authorities tried to justify the death of victims of extrajudicial executions by claiming that they were guerrillas shot while fighting with government forces or ordinary criminals violently resisting arrest. In other cases, the murders were covered up with false reports of incidents in which the persons executed had died.

49. According to the files of the Colombia Office and the other sources consulted, those responsible for the largest number of violations of the right to life are members of paramilitary groups, identified as the perpetrators of two thirds of all executions. However, in a number of cases known to the Colombia Office, the complainants were able to refer to facts pointing to the joint participation of and complicity between paramilitaries and law enforcement officials.

50. Violations of the right to life in Colombia cannot be discussed without reference to the many cases of death threats. Such threats, which are made directly, by telephone, by mail, and by messages and printed matter, were directed against hundreds of persons throughout the country, many of whom chose to leave their homes in order to escape their announced murder. In some cases, all the inhabitants of a village or district or all the officials in a government department, were threatened.

51. The Special Rapporteur on extrajudicial, summary and arbitrary executions continued to receive large numbers of allegations of violations of the right to life in which the main victims were civilians, particularly human rights defenders, community leaders, peasants, indigenous peoples and witnesses to crimes. The Special Rapporteur reports that paramilitary groups are mainly responsible for such violations (see document E/CN.4/1999/39/Add.1, paras. 58-63).

2. Right to personal integrity

52. The Office received 15 complaints relating to violations of this right. As explained in the preceding report (E/CN.4/1998/16, para. 48), the number of cases of torture reported in Colombia does not reflect the frequency and intensity with which violations of the right to personal integrity are committed in the country. In many cases, the victims of torture refrain from reporting what happened to them to the competent authorities because they are afraid of reprisals by the persons who tortured them. In other cases, the torture of a person executed extrajudicially is not included in the files, which show only the date of the violent death. Cruel, inhuman and degrading treatment or punishment affected persons arrested by the military forces in areas where counter-insurgency operations were being carried out, persons deprived of their liberty in police stations and persons detained in prisons. In this respect, law enforcement officials and prison guards have frequently acted contrary to the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and the Standard Minimum Rules for the Treatment of Prisoners. Many of the victims of extrajudicial executions were first subjected to grave physical suffering, since their corpses showed clear signs of beatings, whipping, burns and battering. Only in a few cases did the torturers try to obtain confessions or testimony from the persons being tortured; they were usually out to punish the victims for their ideas or activities or to coerce or intimidate third persons by torturing them in a public place or in the presence of their neighbours or relatives. The overwhelming majority of cases of physical torture were attributed to paramilitaries.

53. The Special Rapporteur of the Commission on Human Rights on the question of torture sent an urgent appeal to the Government of Colombia in which he requested information on 19 cases of torture and a reply to cases transmitted in 1997 (see document E/CN.4/1999/61, paras. 147-168).

3. Right to liberty and security of person

54. Unlawful and arbitrary arrests took place either without a warrant, or in violation of the procedures provided for by law or without legal grounds whatever. The Office received 10 complaints of arbitrary arrests. Although,

in times of institutional normality, the members of the military forces do not have powers of arrest, there were many cases of persons arrested by members of the army for interrogation or to force them to act as guides or informers for soldiers. There is no doubt that two factors contributed to unlawful arrests: the broad powers of arrest enjoyed by the police on the basis of various rulings by the Constitutional Court and the dismantling of the remedy of habeas corpus that has been going on for several years. The amendment of the procedural rules on habeas corpus which the Office recommended in 1997 were not included in any of the bills that might have contained them.

55. Violations of the right to security of person took the form of enforced disappearances. 5/ The Office received 51 complaints of enforced disappearances, which continued to be one of the serious human rights violations committed most frequently in Colombia. In a few cases, the missing persons were released following a period of detention and concealment. In nearly all cases, disappearance led rapidly to torture, extrajudicial execution and the burial of the victim in a clandestine grave or to the abandonment of his corpse in a place where it could not be easily identified. Although the perpetrators of most of the enforced disappearances reported in 1998 were members of paramilitary groups, there were also cases of the disappearance of persons deprived of their liberty by members of the military forces and the police. The Working Group on Enforced or Involuntary Disappearances transmitted 54 cases to the Government of Colombia, of which 50 took place in 1998. The Government replied by indicating that several cases are still under investigation. It should nevertheless be pointed out that there are very few cases in which the persons responsible are brought to trial (see document E/CN.4/1999/62, paras. 82-90).

56. Article 12 of the Colombian Constitution expressly states that "no one shall be subjected to enforced disappearance". However, since this offence is not listed in the Penal Code, the judicial authorities are required to investigate and try disappearances on the basis of the rules applying to the offences of kidnapping and arbitrary detention.

4. Right to freedom of movement and residence

57. Most of these violations occurred as a result of forced displacement. Other violations of freedom of movement occurred as a result of the arbitrary application of restrictions on freedom of movement by members of the security forces and the unlawful installation of fixed pedestrian and vehicle control points by members of paramilitary groups. In the first case, the inhabitants of certain areas where guerrilla groups operate were indiscriminately prevented from moving from one place to another. In the second, roadblocks were used to "select" individuals who were then subjected to enforced disappearance, torture and murder.

5. Justice

(a) Impunity

58. According to the authorities themselves, barely 20 per cent of offences committed are investigated in Colombia and 214,907 unexecuted arrest warrants were counted. The atmosphere of violence and intimidation that often

surrounds the work of the prosecutors, judges, magistrates and lawyers who take part in criminal proceedings as representatives of persons seeking criminal indemnification or as defence counsel favours impunity. In 1998, at least 15 officials from the Technical Investigation Unit of the Office of the Procurator-General were murdered, 6 in Antioquia. A prosecutor was also murdered in that department. Many of these victims were conducting investigations into paramilitary groups. Several other prosecutors connected with investigations of these groups or members of the security forces were forced to abandon their posts and seek refuge abroad because of the threats they received. In September, the ACCU (Peasant Self-Defence Groups of Córdova and Urabá) threatened all the prosecutors in the Human Rights Unit of the Office of the Procurator-General. In addition to this particularly serious situation, there is the widespread problem of threats to staff members of the Office of the Procurator-General, including senior officials. The Office of the Procurator-General reports that specific threats were made against 21 prosecutors throughout the country. According to information provided by FASOL (Solidarity Fund between German Judges and Colombian Judges Victims of Violence - Judicial Branch), an NGO specializing in this matter, 22 members of the judiciary (the majority of the Office of the Procurator-General) were killed, 4 were injured, 4 were detained and kidnapped and 13 had to move away as a result of threats during the period from January to 31 October. The Special Rapporteur on the independence of judges and magistrates has repeatedly expressed his concern about such incidents (see document E/CN.4/1999/60, paras. 76-79).

59. The judicial authorities are also contributing to impunity by creating unjustified delays. Overwork and the shortage of funds and professional technical resources are making the administration of justice even more difficult. It should, however, be noted that, in recent months, the Office of the Procurator-General has conducted successful investigations into the murders of several human rights advocates and other horrible crimes.

60. One of the causes of impunity is that, in many parts of the country, people are afraid to fulfil their legal obligations as complainants or witnesses because, in quite a few cases, those who cooperated with the judicial authorities or made statements against persons responsible for the crimes were either killed or harassed.

61. Another factor favouring impunity is the leniency of the military criminal courts in investigating and trying members of the security forces involved in human rights violations and breaches of international humanitarian law. Very few soldiers and police officers have been sentenced by the military courts, even though the Office of the Attorney-General of the Nation has established the disciplinary responsibility of the accused for the offences for which they are being tried. The decisions of the Constitutional Court clearly show that, in the Colombian legal system, military jurisdiction is of a special and exceptional nature and may handle the offences committed only when the punishable acts have a clear-cut, close and direct link with official duties. However, the military courts continue to claim that they have jurisdiction to prosecute members of the armed forces who have been accused of wrongful acts, which, by their very nature and seriousness, cannot be considered to be related to the duties of the security forces. 6/ According to the Court, any doubt about jurisdiction to try an offence

committed by members of the security forces must be resolved in favour of the ordinary courts. This criterion has not been stringently applied. In settling conflicts of jurisdiction, the Supreme Judicial Council has continued to refer proceedings to the military criminal courts which should, according to the above-mentioned ruling, be tried by the ordinary courts.

(b) Due process

62. Violations of the right to due process and judicial guarantees took place particularly in connection with the operation of so-called "regional justice" ("faceless justice"), whose elimination has been recommended on a number of occasions by various international human rights organizations. The system of regional justice is contrary to article 14 of the International Covenant on Civil and Political Rights, since public hearings are done away with, while court officials and witnesses for the defence act anonymously, deadlines for investigations are far too long and, in practice, grounds for temporary release are eliminated. In 1998, disciplinary investigations by the Office of the Attorney-General of the Nation showed that regional justice officials engaged in the unlawful practice of "cloning witnesses", by which a person can make statements both as an identified witness and as a "faceless" witness and his testimony appears in the files as a set of statements that corroborate one another. The Colombian authorities have kept the rules extending the jurisdiction of regional justice in force until 30 June 1999. Neither of the two bills submitted in 1997 to terminate such jurisdiction was approved by the Congress. Although the time limit is to expire within a few months, moreover, no legal measure has been taken to prevent the dismantling of this system from severely hampering the administration of justice, jeopardizing the security of judicial officials and witnesses and giving rise to new violations of the rights of persons on trial.

63. The procedure followed by the military criminal courts in trying members of the military and the police is also contrary to the provisions of article 14 of the International Covenant on Civil and Political Rights. It contravenes the principle of the independence and impartiality of the judicial authorities, since the trial function is entrusted to the hierarchical superior and there is no separation at all between the function of command and that of prosecution. This means that in some cases the same official may act both as judge and as party in relation to the acts under investigation. It must also be regarded as a violation of human rights that, in the military criminal courts, persons who have suffered loss or injury as a result of an offence are not allowed to introduce criminal indemnification proceedings (parte civil).

(c) Prison situation

64. Colombia's prison population, which is the responsibility of the National Penitentiary and Prison Institute (INPEC), continues to feel the ill effects of overcrowding, since there are 40 per cent more prisoners than the State's prisons can handle. The implementation of rules on "alternative penalties", which were adopted in December 1997, has not had any noticeable effect on the situation of overcrowding. In 1998 alone, moreover, four different officials have been in charge of INPEC and this has done nothing to

further the formulation of comprehensive plans and strategies to deal with the prison problem. The announcement of the building of new prisons which was made last year has not been followed up this year.

65. The lack of security in prisons continued to be a matter of great concern to the Office. Riots, escapes and murders continue to take place without any effective response by prison and government authorities. The lack of internal control appears to be the main cause of much of the violence, such as that which occurred on 13 April 1998 in La Picota prison in Bogotá, when 15 prisoners were killed by other prisoners. 7/

66. The introduction of pre-trial detention as a general rule, administrative corruption, inadequate medical care, the lack of genuine social rehabilitation channels and programmes, the situation of the children of women prisoners and the abuses to which relatives are subjected during pre-visit searches continue to be the main questions to which prisoners would like answers from the authorities. Attention is also drawn to the budget restrictions imposed on the Office of the People's Advocate for the provision of free legal representation for persons who cannot afford it.

B. Economic, social and cultural rights

1. Socio-economic context

67. Diagnoses by various governmental and non-governmental sources and by the United Nations system confirm the seriousness of the situation with regard to these rights. Out of 40 million inhabitants, approximately 50 per cent are women, 41 per cent are minors, 70 per cent live in urban areas and 18 million live in poverty. Per capita GDP income and improvements in education and health place Colombia among the countries with a "high human development index", higher than the Latin American average. There is, however, an enormous socio-economic and demographic gap between urban and rural areas. The inequality is so great that the rating has been reduced to that of "medium development", which means that the country has regressed by 10 years. 8/ Poverty and unemployment rates increased throughout the year and there was an increase in violence, as well as a continuing serious problem of corruption at all administrative levels. Although the authorities continued to try to eliminate drug trafficking, it goes on being a serious problem for the stability of institutions and the expansion of Colombia's international relations. The upsurge in violence, widespread corruption and the problem of drug trafficking have contributed to the fact that the country's socio-economic situation has not improved at the expected rates. As a result of the sharp deterioration in the economic situation, the Government has declared an economic state of emergency, adopted various fiscal adjustment measures and imposed new taxes. President Pastrana has submitted a set of adjustment measures and a national development plan.

2. Right to work and social security

68. The right to work in Colombia is being hampered by the rise in unemployment. According to the National Administrative Statistics Department (DANE), 15.7 per cent of the active population is unemployed. This is the highest figure for 25 years and the majority of persons affected are

women, particularly in rural areas, and young people. The quality of employment has also deteriorated 9/ and there has been a significant increase in the informal sector.

69. According to the United Nations Common Country Assessment for 1998 (CCA), there has been no improvement in the workers' protection model and a minimum wage is far from being universally and sustainably guaranteed. There is neither a reliable record of work accidents nor an appropriate diagnosis of work-related illnesses and there are few labour inspection activities.

70. The Office is concerned about inadequate steps to eliminate child labour, 10/ whose impact is much greater in rural areas. Cases have been recorded of minors who work more than 50 hours, when the legal limit is 26 hours per week.

71. The Office notes that some trade union rights are still not recognized and that domestic legislation has not been brought into line with the International Labour Organization Conventions to which Colombia is a party. The right of government employees to organize and to collective bargaining is not allowed and neither is the right to strike in the case of non-essential public services. The Labour Statute provided for by the Constitution and international instruments has not been enacted. In many cases, protests take the form of work stoppages, a mechanism which is not accepted by Colombian law. The most relevant stoppage was that by State workers in October 1998, during which seven trade unionists were killed.

3. Right to education and culture

72. Despite the progress made in reducing illiteracy, the situation with regard to education in Colombia is precarious. According to 1998 data of the Human Development Report for Colombia (IDHC), universal pre-school and primary school coverage is far from having been achieved, since public expenditure is not sufficient to cover all the needs of basic education. There is also more investment in higher education than in primary and secondary education. The main feature of educational development is the imbalance between regions, urban and rural areas and social groups. 11/ The Human Development Report for Colombia and the National Planning Department (DNP) point out that, although improvements have been made in the process of educational and cultural decentralization, there are still shortcomings with regard to universal access to cultural property.

4. Right to health

73. According to the CCA, the health system still has not achieved the objective of universal coverage and is available to only 57 per cent of the population, although there has been an increase in public spending and there have been some improvements in the process of decentralization.

74. From 1985 to 1995, the life expectancy of Colombians rose from 62 to 70 years as a result of the drop in the mortality rate in general and the child mortality rate in particular, although the latter continues to be high in rural areas and by comparison with other countries of the region (Human Development Report for Colombia data). According to the Ministry of

Health and the Pan-American Health Organization (PAHO), violence is the main cause of illness, since it accounts for 25 per cent of the causes of mental illness.

75. According to the most recent figures provided by the United Nations Population Fund, as far as reproductive health is concerned, the objective of reducing the maternal mortality rate has not been achieved.

76. There are no specific statistics on sexually transmitted diseases and AIDS. Inadequate preventive policies have not halted the spread of the epidemic, which, according to Ministry of Health data, has increased by over 100 per cent in the last two years. In many cases, the Office has observed how counselling has helped provide care for AIDS patients.

5. Right to food

77. According to DNP, the right to food is primarily affected by the crisis in the rural sector and the lack of an equitable, efficient and productive development model, as well as conditions of poverty and violence in the country. Although displaced persons receive "food supplement" rations during extended periods of time, which may even exceed one year in some cases, there are shortcomings in the supply of food to displaced population groups.

6. Right to housing

78. According to the CCA, access to housing has been seriously affected by the crisis in subsidy programmes for low-income families, onerous rates of interest for the financing of dwellings and heavy speculation on prices of urban land without any monitoring policies. In its September report, the Colombian Housing Chamber (Camacol) estimates that Colombia has a shortage of 1.2 million dwellings.

7. Right to a healthy environment

79. According to the investigation conducted by DNP in 1998, the natural resources situation is reaching dangerous and undetermined levels of deterioration and shortage. DNP indicates that water is beginning to be practically used up and polluted at source. Colombia has no culture of soil conservation and the methods used in agriculture and animal husbandry, particularly in hilly areas, are inappropriate and have caused erosion and desertification.

80. Deforestation increased in Andean and sub-Andean regions, one of the main causes being the use of chemical precursors for illegal crops, which also contaminate and endanger people and crops.

81. Another particularly serious matter is the increase in oil spills caused by guerilla forces blowing up pipelines, thereby generating effects that are harmful to human beings and the environment.

C. Women's rights

82. The 1998 Human Development Report for Colombia (IDHC) estimates that, despite the progress made in the last 40 years with regard to the recognition of women's rights, there are still situations that have to be corrected. For example, men earn 27 per cent more in wages than women and, although this is prohibited by law, maternity and marriage continue to make it difficult for women to be hired on the labour market. Labour market penetration is lower, job quality less good, health protection inadequate and women suffer the consequences of the high level of violence and the armed conflict. 12/ The National Equity Department, a body reporting to the Office of the President of the Republic, estimates that women account for 54 per cent of the poor population of the country and that 25 per cent are heads of household. According to the non-governmental organization Advisory Office for Human Rights and Displacement (CODHES), 56 per cent of displaced persons are women.

83. Although women account for 49.7 per cent of the voting population, none of the 32 departments is governed by a woman. Only 5 per cent of mayors' offices are headed by women mayors and only 17 of 159 members of the House of Representatives and 14 of 102 members of the Senate are women.

84. The Human Development Report for Colombia states that girls have better access to education and better results in primary school than boys. However, the situation worsens considerably as the level of schooling increases.

85. According to the Forensic Medicine Institute, 81 per cent of the victims of family violence in 1997 were women, with a 13 per cent increase compared to the previous year, and three quarters of the women injured are aged under 35 years. The United Nations Population Fund indicates that Colombia is one of the countries with the highest rate of traffic in women for the sex trade.

D. Rights of the child

86. The situation of children in Colombia is a matter of concern. According to the Colombian Family Welfare Institute (ICBF), 30,000 minors live in the streets in large towns. Most of them are addicted to alcohol, drugs and inhalants and many are the victims of so-called "social cleansing".

87. The Office of the Procurator-General of the Nation estimates that 25,000 children throughout the national territory are sexually exploited. A study carried out by the Office of the People's Advocate indicates that there are networks for the traffic in women and children that operate throughout the national territory with a view to domestic, international and intercontinental trade. The rate of sexual offences against minors and the inadequate measures adopted to improve the situation 13/ are also matters of concern.

88. Other studies by the Office of the People's Advocate recognize the unfavourable situation of juvenile delinquents, against whom practices such as deprivation of liberty in police stations and isolation as a method of punishment are used.

89. There is also concern about the growing number of minors who are victims of internal displacement and who have the greatest needs and wants. According to CODHES data, minors account for 55 per cent of the population displaced by the violence.

90. The amendment of the Minors' Code, which is to be brought into line with the Convention on the Rights of the Child, is still pending. The draft submitted to the Congress last year was shelved.

E. Ethnic minorities

91. Although the Constitution "recognizes and protects the ethnic and cultural diversity of the nation", the Office has received many complaints indicating a less favourable situation. In a number of areas, disputes over land leave indigenous populations unprotected notwithstanding legal guarantees available. 14/ Colombia currently has more than 400 indigenous territories which are considered inalienable and are administered autonomously by indigenous authorities. These territories, which cover a total area of 280,000 km^2, equal to one quarter of the area of Colombia, have a total indigenous population of approximately 700,000.

92. Indigenous communities' declarations of neutrality in the armed conflict were usually respected by the various parties to the conflict. With the resurgence of violence, a number of violations of the rights of indigenous populations have been reported. For example, in the mountainous areas of Chocó and Antioquia throughout the year, and in Vaupés following the taking of Mitú by the FARC, particularly serious incidents have occurred involving numerous deaths, disappearances and forced displacements.

93. The Afro-Colombian communities have also been unable to effectively exercise their rights. Their territories, too, enjoy special legal protection in theory. Thousands of members of these communities have been displaced and evicted from their land in precisely those areas in which allocations of land provided for by law were to be put into effect.

94. In some areas of the country, particularly Chocó, indigenous and Afro-Colombian populations have been the most affected by the alarming deterioration in the health situation, particularly with the spread of endemic diseases such as malaria and dengue, a situation which has not been properly addressed by the Government.

F. Displaced persons

95. One of the more serious manifestations of the human rights and international humanitarian law crises in Colombia is unquestionably internal displacement. According to NGO estimates, 241,000 individuals were subjected to forced displacement in the first nine months of 1998. If this trend were to continue until the end of the year, the number of displaced persons would be 25 per cent higher than in the previous year. The Office of the People's Advocate and the NGOs all assert that the total number of displaced persons is now more than 1,300,000. According to UNHCR, Colombia's internally displaced population is among the eight highest in the world. The phenomenon of

internal displacement has spread to almost all the country's departments, the most seriously affected being Antioquia, Chocó, the departments on the Caribbean coast and the Magdalena Medio area. 15/

96. Most displacements occur as a result of other grave and massive violations of human rights and large-scale violations of international humanitarian law. Displacement is also a wartime strategy for controlling territory. The intensification and spread of the dispute over territory among parties to the conflict has led to an increase in the number of displacements. 16/

97. Displacement is also a way of gaining possession of land. The existence of natural resources and/or the implementation of large-scale economic projects tend to create pressures which force small-scale farmers to leave their land. The Office has received reports of compulsory sales of land at far below market values.

98. Displaced persons concentrate in municipal centres, large towns and departmental capitals. Because of the precarious financial status of many municipalities and the failure to allocate sufficient resources specifically for displaced persons, it has proved virtually impossible to meet their needs. Many displaced groups are undernourished and access to health services, housing and education is limited and inadequate to meet needs. Although the Government has signed assistance agreements, the Office has observed during field visits that they are not honoured. 17/ In a statement on 25 June 1998, the Office publicly expressed its concern at the lack of humanitarian assistance being provided to displaced persons and condemned the failure to implement Act No. 387 on displaced persons, as well as recalling the applicability of the United Nations Guiding Principles on Internal Displacement.

99. This situation sometimes gives rise to frustrations and predisposes receiving communities and municipal authorities to reject displaced persons. The serious deficiencies in State assistance have prompted some groups of displaced persons to resort to protest measures such as sit-ins in public offices, street demonstrations and hunger strikes. The leaders of these actions are often condemned or even made "military objectives" by paramilitary groups. This combined with the spread of the conflict has increased the number of cases of second and even third displacements. 18/

100. Some displaced persons have opted for resettlement as provided in Act No. 387. A displaced person wishing to buy land has to pay only 30 per cent of the land's value. The procedure is slow, however, and relatively few displaced persons have been able to take advantage of it. In some cases, resettlement has brought new security problems due either to the fact that the land allocated has been in areas of influence of the parties to the armed conflict or to internal problems within the settlements themselves. Those who have decided to return to their communities have also been victims of further violations, thus demonstrating that the protection afforded by the authorities has been insufficient and ineffectual. 19/

101. The Representative of the Secretary-General on displaced persons has been closely following the internal displacement situation in Colombia and

believes that a number of the recommendations which he made following his visit to Colombia in June 1994 have been adopted (see report E/CN.4/1999/79, paras. 84-86). However, the lack of any policy for combating the causes of displacement and enabling displaced persons to enjoy their fundamental rights only helps to worsen the already difficult internal displacement situation.

G. Human rights advocates, trade unionists and journalists

102. In 1998, the situation of human rights advocates continued to be very worrying. In February 1998, Jesús María Valle was shot dead in his office in the centre of Medellín (Antioquia). In April, Eduardo Umaña Mendoza died in a similar attack in Bogotá. The deaths of these two lawyers, who were nationally and internationally renowned for their work in defence of human rights, caused widespread apprehension among human rights advocates. The Office of the Procurator-General arrested a number of individuals on charges of having perpetrated or masterminded the crimes in question.

103. Following the murder of retired General Fernando Landazábal on 13 May 1998, the Procurator-General's Office, at the request and with the support of the Army, searched the national headquarters of the Intercongregational Committee for Justice and Peace of the Conference of Members of Religious Orders of Colombia, in Bogotá. In the course of the search, the soldiers subjected the building's occupants to intimidation. Father Javier Giraldo, S.J., the General Secretary of the NGO, was compelled to cease all public activities and stay in hiding, following threats received after the search. Like Father Giraldo, a large number of very well-known human rights advocates were obliged to give up their work and seek refuge abroad. These events are typical of the general atmosphere of suspicion, pressure and open harassment to which many human rights NGOs are subjected, despite public recognition of their work by the Government.

104. On 21 April, President Samper held a meeting with human rights NGOs, various government ministers, senior members of the security forces, the Office of the Procurator-General and the Office of the Attorney-General to look into the question of the safety of human rights advocates. At the meeting, to which the Colombia Office was invited, agreement was reached on a number of measures, including the inspection of the records of army intelligence Brigade XX by the Attorney-General of the Nation. The meeting also agreed to assign trusted personnel to the protection of persons who had been threatened and to step up security measures at the headquarters of NGOs. At the time this report was completed, no information had been received on progress in inspecting intelligence records.

105. Threats have been made not only against representatives of human rights NGOs, but also against local officials. The Office was informed of threats against at least 13 officials who had worked in the fields of human rights and peace during the last months of the previous Government. They included the then Presidential Adviser on Human Rights, who was forced to leave the country, and two senior officials of the Office of the High Commissioner for Peace.

106. Persecution and harassment of trade union members and leaders continued in 1998. The most glaring example was the killing of

Jorgé Luis Ortega García, the Vice-President of the Trade Union Confederation (CUT), the country's largest labour organization, during a nationwide work stoppage. The only person arrested in connection with this act, the sole possible witness, was found dead a few days later in prison. Death threats continue to be made against the leaders of the oil-workers' union, USO, who had supported the protests against the massacre of seven residents of the oil town of Barrancabermeja and the enforced disappearance of 25 others at the hands of paramilitary groups on 16 May 1998.

107. The Foundation for Freedom of the Press and reports made public during the general assembly of the Inter-American Press Association in Uruguay in November 1998 both assert that eight journalists were murdered in Colombia between January and October 1998. Although it has not yet been possible to identify the perpetrators in all cases, in at least four of them, the victim's death is thought to have been politically motivated.

H. Main breaches of international humanitarian law

108. In the non-international armed conflict being waged in Colombia, article 3 common to the four 1949 Geneva Conventions, the provisions of Additional Protocol II of 1977 and customary law all apply. Insofar as certain human rights violations are committed within the context of a non-international armed conflict, they also constitute violations of international humanitarian law.

109. The ELN (National Liberation Army), FARC (Revolutionary Armed Forces of Colombia) and EPL (Patriotic Liberation Army) guerrillas, as well as Carlos Castaño, the head of AUC (United Self-Defence Groups of Colombia), the largest paramilitary organization, have repeatedly reiterated their undertaking to abide by international humanitarian law, incorporating some of its provisions in the organizations own codes of warfare. In practice, however, the various armed groups have adopted fanciful interpretations of international humanitarian law, justifying the killing of opponents in non-combat situations, targeting civilians as "military objectives" or applying their own concepts of justice in order to kill persons in their power.

110. All parties to Colombia's internal armed conflict committed serious violations of international humanitarian law during 1998. Specifically, the Colombian Office was informed of the following:

1. Murders

111. Murders of persons not directly involved in hostilities or no longer involved in them, including members of the armed forces who had laid down their arms or been put out of action after being ill, wounded or taken prisoner, were committed on a large scale by guerrilla and paramilitary groups. There were also reports of murders committed by members of the security forces. The guerrilla groups were responsible for selective killings of civilians suspected of collaborating with or providing information to paramilitary groups or the security forces, as well as for the murder of members of the security forces who had surrendered or been taken prisoner. Some of the killings attributable to guerrilla groups were carried out by

members of the FARC and ELN urban militias, who do not wear uniforms. Paramilitary groups were also responsible for selected killings of civilians suspected of collaborating with the guerrillas. On many occasions, these killings took the form of massacres. 20/

2. Threats

112. A practice of the paramilitary groups is to terrorize whole populations by painting threats on the walls of houses and the large-scale distribution of leaflets. These threats often precede massacres or mass displacements. Both guerrilla and paramilitary groups resort to threats against the lives and physical integrity of individuals so as to force civilians to pay "war taxes" or "dues" or to collaborate with them. Selective killings of civilians who have refused also have a terrorizing effect on the relatives of the victims, frequently resulting in their displacement. The victims of extortion range from large landowners or livestock farmers to the most humble peasants.

3. Hostage taking

113. The guerrillas continued to engage on a large scale in abductions for ransom in order to fund their activities. In some cases, kidnappings, especially of members of municipal authorities, were carried out for publicity or propaganda purposes. In 1998, there was an increase in the number of mass abductions, known as "miraculous catches", carried out by the guerrillas, who set up roadblocks on the main highways.

114. At the meeting with representatives of civil society from 12 to 15 July 1998 in Mainz, Germany, ELN undertook not to abduct persons aged over 65 or under 18 and pregnant women. However, the group continued to carry out kidnappings, sometimes in breach of their own undertaking.

115. Fundación País Libre reports that from January to October, 921 persons were kidnapped for ransom and 372 for political reasons by the various guerrilla groups, i.e. a total of 1,293 individuals, or 64 per cent of all kidnappings carried out in Colombia.

4. Attacks on the civilian population

116. In the course of the fighting, the civilian population has often been subjected to indiscriminate attacks or been used by the combatants as a shield against enemy fire.

117. The paramilitary groups have used attacks on the civilian population as their main war strategy, as evidenced by the innumerable massacres committed.

118. Although, on a number of occasions, the guerrilla groups warned the population of their intention to attack, the fact that the population did not move out did not deter them from proceeding with the attack. Many civilians died in crossfire, houses were destroyed, resulting in the displacement of their occupants and, in many cases, the guerrillas made use of buildings adjoining their military objectives. 21/ The guerrillas at times carried out terrorist-type attacks by blowing up civilian installations. 22/

119. In their counter-offensives, the armed forces also caused numerous civilian casualties, particularly as a result of aerial gunfire and bombing. The Office was also informed of cases in which the security forces occupied schools or private houses.

5. Forced displacement

120. Forced displacement has become one of the most serious problems caused by Colombia's internal armed conflict (see paras. 95-101).

6. Torture and ill-treatment

121. In many cases, the deaths of persons being held by paramilitary groups were preceded by acts of brutality, torture and sometimes mutilation. The security forces also reported many cases of soldiers or police officers captured by guerrillas having been tortured before being killed. While they are not indicative of a widespread practice, complaints were received by the Office of acts of torture carried out by the security forces in order to obtain information from individuals detained in connection with the armed conflict.

7. Violations of the general protection of medical duties, medical units and transports

122. Although many of these offences were committed by the guerrillas and paramilitary groups, the security forces also on occasion attacked medical facilities.

123. The most serious and frequent violations are paramilitary and guerrilla attacks against the lives and physical integrity of medical personnel, often merely for having attended to wounded combatants, in accordance with the duties and ethics of the profession, or simply because of the suspicion engendered by their presence in areas of conflict. 23/ Paramilitary groups are also known to have threatened or even killed medical personnel for having assisted guerrillas. 24/

124. The security forces also, on occasion, occupied hospitals or health centres. On a number of occasions, the armed forces impeded the free movement of medical and food supplies and ambulances were used for military intelligence work or for transporting prisoners.

8. Recruitment of children

125. Despite the prohibition of the recruitment of children under 15 years of age and against allowing them to take part in hostilities, guerrilla and paramilitary groups continue to involve children in the conflict and to recruit them as combatants or on support duties.

126. Data collected at first hand by the Office itself confirm that guerrilla groups recruit children from the age of 12 upwards, either by persuasion or by making threats against their parents. Another phenomenon is the recruitment of the children of guerrillas from a very early age. 25/ Children as young as eight have been seen patrolling with paramilitary units.

127. The Office learned of cases in which members of the Army have held on their bases children handed over or captured from guerrilla groups, and used them to obtain information and patrol with their troops as guides. Such practices expose children to the risks inherent in military operations and to possible reprisals by guerrillas.

9. Use of anti-personnel mines

128. The armed forces estimate that Colombian guerrillas have laid some 50,000 anti-personnel mines throughout the country, many of them home-made, which have killed and injured not only members of the security forces, but also civilians, as they have been placed in areas inhabited or frequented by the civilian population.

129. The Colombian armed forces also continue to use these devices. They justify this as a strictly defensive measure and acknowledge that their installations are protected by some 20,000 anti-personnel mines. However, no strategy has yet been devised for destroying them.

130. On 29 October 1998, the Second Committee of the Senate of the Republic of Colombia approved at first reading the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (Ottawa Convention).

10. Attacks on civilian property

131. During 1998, numerous attacks against oil pipelines were carried out by guerrilla groups, particularly ELN, with serious consequences for the civilian population, given the danger involved in releasing a highly inflammable substance. 26/ The Office received complaints from the Colombian authorities that, in some instances, the oil spillages have damaged crops and polluted water sources.

132. The Colombia Office received many complaints about the security forces' practice of restricting overland or river transport of food, medical supplies and fuel in various areas of the country. The Government presented the Office with a written justification of these measures, stating that they were designed to cut off the supply of these items to the guerrillas.

V. FOLLOW-UP OF INTERNATIONAL RECOMMENDATIONS

133. The United Nations High Commissioner for Human Rights, the Commission on Human Rights, the Human Rights Committee, the Special Rapporteur on the question of torture, the Committee against Torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Committee on the Elimination of Racial Discrimination, the Committee for the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Representative of the Secretary-General on internally displaced persons and other United Nations bodies, mechanisms and agencies have submitted various observations and recommendations to the Colombian Government.

134. During her visit to Colombia in October 1998, the High Commissioner recommended that the Government should adopt a national human rights plan outlining government policy on human rights in accordance with what was agreed at the 1993 Vienna Conference. At the time this report was completed, no such plan had yet been presented.

135. During their joint visit to Colombia in October 1994, the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on torture both drew attention to the need to strengthen the ordinary justice system to make it universally more efficient, so that it would no longer be necessary to resort to special justice systems, such as the system of regional justice (see report E/CN.4/1995/111). In this connection, the Procurator General submitted to Congress drafts of a new Penal Code and a new Code of Criminal Procedure. The new draft Penal Code, which has still not been enacted, criminalizes genocide, enforced disappearance, torture, the killing of protected persons, hostage-taking, forced displacement and other acts against persons and property protected by international humanitarian law. However, the new draft Code of Criminal Procedure makes no provision for the amendment of habeas corpus to guarantee an effective remedy, particularly in cases of enforced disappearance.

136. During her visit to Colombia last October, the High Commissioner emphasized the importance of the instrument creating the Statute of the International Criminal Court adopted in Rome on 17 July 1998 and the advisability of Colombia joining the 40 or so countries which had already signed it. On 10 December, the Government signed the Statute and declared its intention of working for its ratification by Congress and promoting the necessary constitutional reforms.

137. Although various United Nations bodies, including the Commission on Human Rights itself, have recommended the reform of the Military Penal Code, this has not yet been approved by the legislature. The Office has submitted its observations regarding the fact that the current version of the draft does not meet international standards. The draft does not admit the principle that the ground of due obedience cannot be invoked in the case of orders which, if carried out, result in a violation of human rights or war crimes. The draft makes very limited provision for criminal indemnification (parte civil) in military criminal proceedings. It is also significant that the draft denies generals and admirals of the armed forces the right to review by a higher court as embodied in article 14, paragraph 5, of the International Covenant on Civil and Political Rights. The present Government has declared its intention of pressing for the reform of the Military Penal Code to conform with international instruments.

138. Various bodies have recommended that violations of human rights and crimes against humanity should be removed from the jurisdiction of the military courts and that those cases currently before military courts should be transferred to civil courts. In this connection, the Constitutional Court in 1995 issued a ruling that the ordinary courts alone were competent to try offences which did not have a clear, close and direct link with military service. This ruling has not always been followed. Although 468 cases have been transferred from the military criminal courts to the ordinary courts, a number of cases of serious violations of human rights remain within the

purview of the military justice system. Examples include the case of the massacre at Caloto in Valle del Cauca on 16 December 1991, for which President Samper recognized the Government's responsibility; the case against the Navy for the massacres in Barrancabermeja in 1992; and the enforced disappearance of Nydia Erika Bautista on 30 August 1987 in Bogotá.

139. The abolition of the regional justice system unanimously recommended by various human rights mechanisms is still pending, so that despite the urgency attached by the last Government to the bill abolishing it, the bill has not been debated in Congress. The present Government has declared its intention to abolish this system.

140. In order to combat impunity, it was recommended on a number of occasions that all human rights violations should be thoroughly investigated, the culprits punished and the victims duly compensated. Under Decree No. 2429 of 1 December 1998, a Special Committee to Expedite Investigations into Human Rights Violations was set up, comprising the Vice-President of the Republic, the Minister of the Interior, the Procurator-General and the Attorney-General. The Government announced that the Committee's meetings would be open to human rights NGOs and other individuals or entities with responsibilities, knowledge or information relating to the matters dealt with.

141. Regarding the right to personal security, it should be noted that no action has been taken on the recommendations made on a number of occasions by the Commission and the High Commissioner on the need to criminalize enforced disappearance in accordance with the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and the many drafts submitted over the years. The bill currently before Congress, although a step forward, is not fully in conformity with the United Nations Declaration as it does not take account of the stipulations regarding due obedience and the exclusion of military jurisdiction.

142. With regard to personal integrity, national legislation has not been brought into line with the requirements of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as recommended by the Committee against Torture (see 44/A51/44, para. 81). The Government has not taken effective measures to curb such practices.

143. Regarding internal displacement, a number of the recommendations made by the Secretary-General's Special Representative in 1994 are still relevant. The Special Representative recommended strengthening local systems for the protection and defence of human rights in order to prevent internal displacement. In 1998, the Commission, in the Chairman's statement, also recommended that the Government should adopt all necessary measures to protect the lives and physical integrity of internally displaced persons and guarantee the safety of organizations supporting them. The Government's efforts have proved grossly inadequate in that, not only have they failed to solve the problem, but the number of displacement victims has increased considerably, to the detriment of human rights.

144. Both the Human Rights Committee and the High Commissioner have recommended the adoption of special measures for the protection of human rights advocates to ensure that they are able to conduct their activities

without interference or unlawful hindrance. However, their lack of security continues to be a source of concern. The agreements adopted by human rights advocates, the Government and the monitoring bodies on 23 April 1998 have been partially implemented. The Attorney-General's review of the armed forces intelligence service reports on human rights advocates is still pending.

145. There have been many calls for action to disband paramilitary groups by apprehending, trying and punishing those who inspire, organize, lead, belong to, support and finance them. The authorities have issued public statements against such groups and a so-called "Search Corps" was formed to hunt down paramilitary members, but its composition and functions are such as to make it inoperative and ineffectual. Although the actual number of paramilitary members arrested was greater than in the previous year, this is offset by an increase in the number of paramilitary groups, the expansion of their activities and their strengthened organization. No significant military action has been taken against these groups.

146. No action has been taken either to curtail the activities of the Special Vigilante and Private Security Services (formerly known as CONVIVIR), despite repeated requests by the various United Nations mechanisms. The lack of transparency of these services and complaints about their links with paramilitary groups and their criminal activities continue to cause concern. The Superintendent of Vigilante and Private Security Groups failed to provide the Office with the requested information on the development, activities and monitoring of these services.

147. The Committee on Economic, Social and Cultural Rights issued a set of quite specific recommendations on the status of women, freedom of association and collective bargaining, education and housing, the situation of indigenous communities, displaced persons, the underprivileged, changes to the taxation system and other matters, many of which have met with no response. The Government's efforts have not been sufficient to ensure the full exercise of economic, social and cultural rights.

148. Despite recommendations addressed to the parties to the armed conflict, serious breaches of international humanitarian law have continued to occur. Far from ceasing, practices such as killings, attacks against the civilian population, hostage-taking, forced displacement and the recruitment of children have actually increased.

VI. CONCLUSIONS

149. The United Nations High Commissioner for Human Rights again thanks the Colombian Government and other national authorities for their continued support for the activities of the Office in Colombia. Those thanks also go to all sectors of Colombian society which have provided invaluable assistance to the Office and the international community, whose support has enabled the Office to continue its activities.

150. The High Commissioner is deeply concerned at the continued violence in Colombia, where violations of human rights and breaches of international humanitarian law, far from diminishing, have increased over the last 12 months. The violations of human rights are serious, gross and systematic.

Breaches of international humanitarian law are still being committed on a large scale throughout the country and attacks on the civilian population, killings, hostage-taking, forced displacement and the recruitment of children are on the increase.

151. The High Commissioner notes with the utmost concern the alarming level of impunity regarding violations of human rights and breaches of international humanitarian law. In this connection, she regrets the continued existence of norms and criteria whose application enables many members of the security forces to benefit from judgements motivated by partiality and indulgence. The fact that the military criminal courts deal with cases involving violations of human rights and war crimes is incompatible with international standards. The High Commissioner also regrets the failure to arrive at a legal definition of punishable acts committed by members of the armed forces and police, which can under no circumstances be considered as "offences related to their service" for the purposes of investigation and trial. She is concerned at the continued failure to comply in full with the Constitutional Court's ruling regarding the restrictive and limited nature of the exemption of members of the security forces from prosecution.

152. During 1998, most government initiatives to improve the human rights situation in Colombia led nowhere, as either they were not carried through or they were insufficient to bring about significant changes. The fact that it was an election year, in addition to the change of Government, impeded the continuity of the policies outlined by the previous administration. At the time this report was being drafted, the incoming Government had still not presented any human rights programme clarifying the new guidelines for government human rights policy. The Government has given an undertaking to use every means at its disposal to remedy the serious situation.

153. The Government of Colombia publicly acknowledged the positive and useful nature of proper and impartial monitoring of the human rights situation in the country and declared that it would maintain a policy open to the scrutiny of the human rights organizations and bodies of the international community. Accordingly, it would support the continuation of the activities of the Colombia Office for a further year. The High Commissioner regrets that many of the recommendations of the various United Nations mechanisms have still not been acted on, despite the fact that they are specific recommendations which have been reiterated for a number of years. During her visit to Colombia in October 1998, the High Commissioner emphasized the importance of those recommendations in improving the human rights situation, which is a universal concern.

154. The Government's planned fiscal changes and administrative reorganization were brought to a halt, as it was unclear which government offices would deal with the various aspects of human rights, making contacts difficult. This was particularly obvious in the case of displaced persons, where it is still not clear which will be the coordinating authority for dealing with this serious problem. The Government announced its intention of improving cooperation with the Office and putting its weight behind the Commission for Analysis and Advice on the Implementation of the

Recommendations of the International Human Rights Bodies, established by Presidential Decree No. 1290, which deals with the implementation of international recommendations on human rights.

155. The High Commissioner regrets the continued occurrence of procedural irregularities which have weakened the guarantees of due process. She points out that the negative characteristics of regional justice or "faceless justice", described in some detail in her previous report (E/CN.4/1998/16, paras. 125-132), have continued to restrict severely the rights of the accused and the action of their defence lawyers. She particularly deplores the fact that the period of applicability of Act No. 270 of 1996, stipulating that this system would not continue beyond 30 June 1999, has not been amended and that none of the bills providing for the early dismantling of the regional justice system was adopted in 1998.

156. The High Commissioner notes with concern that the prison situation in Colombia did not improve in 1998 and that the adoption of the "alternative sanction" scheme has failed to solve or even alleviate the problems of prison overcrowding. She notes that the widespread imposition of pre-trial detention by public prosecutors, combined with the effects of Act No. 288 of 1995 or the "Citizens' Safety Statute", which extends the application of custodial sentences to minor offences, are practices and mechanisms which detract from government responsibility in prison matters.

157. Also of concern is the fact that State officials implicated in killings, disappearances, torture and other atrocities continue to occupy their posts indefinitely. It is regretted that the repeated recommendations of various United Nations bodies that members of the armed forces and police currently before disciplinary or judicial bodies should be suspended from duty have not been acted on more often.

158. The High Commissioner is seriously concerned about the growth of paramilitary groups, whose violent activities have become the main source of human rights violations and war crimes, and at the blatant inadequacy of the measures adopted by the Colombian authorities to prevent their activities, combat them, disband them and bring their organizers and members to justice. She regrets the continued reliable evidence of the participation and complicity of members of the security forces in the crimes committed by these illegal armed groups.

159. The High Commissioner regrets that the authorities have not yet been able to achieve genuine recognition of the right of human rights advocates to conduct their activities freely and peacefully and deplores the fact that killings, threats and smear campaigns against persons engaged, individually or in groups, in protecting and promoting human rights continued in 1998.

160. The High Commissioner is deeply concerned at the dramatic increase in the number of internally displaced persons and the lack of effective measures to deal with this phenomenon. Also of concern are the serious violations of the physical integrity of displaced persons, particularly against their leaders and the organizations representing them. Furthermore, the High Commissioner regrets to note the continued violations of the rights of displaced persons to access to nutrition, health and housing.

161. The High Commissioner deplores the high level of violence against children in Colombia and the exploitation and deprivation to which many of them are subjected. She reiterates her rejection of the practice of "social cleansing" and expresses her concern at the high number of internally displaced minors and the situation of child workers, which does not conform to international provisions. She also rejects the deplorable practices of recruiting and abducting minors.

162. The High Commissioner regrets the continued discrimination and acts of violence against women. She is particularly concerned by the difficult situation of women in rural areas and the low level of representation of Colombian women in politics.

163. In spite of the Government's efforts, Colombia is far from achieving the full enjoyment of economic, social and cultural rights. The High Commissioner is also concerned by the large number of persons living in conditions of extreme poverty, who include the most vulnerable groups, such as peasants, indigenous and Afro-Colombian communities, women, children, juveniles and internally displaced persons.

VII. RECOMMENDATIONS

164. The United Nations High Commissioner for Human Rights, in accordance with the provisions of the Agreement establishing the Office in Colombia, and with the pronouncements, observations and recommendations made to the Colombian Government by the various United Nations organs, mechanisms and agencies monitoring the situation in Colombia, submits the following 17 recommendations:

Recommendation No. 1

165. The High Commissioner urges the Government to redouble its efforts to ensure the full and effective enjoyment of fundamental rights by the whole Colombian population, by formulating comprehensive policies, identifying priority areas, allocating adequate resources and adopting all necessary appropriate and effective measures. To that end, the High Commissioner recommends the adoption of a plan of action for human rights, which would lay the foundation for the genuine and effective promotion and protection of human rights.

Recommendation No. 2

166. The High Commissioner urges all parties to the conflict to fully and unconditionally abide by the norms of international humanitarian law. She urges combatants, in particular, to honour their obligation to protect persons not directly involved in hostilities and give up practices such as hostage-taking, attacks on the civilian population, killings and torture. She urges them to abide by the norms concerning the recruitment of minors and their participation in conflict-related activities.

Recommendation No. 3

167. The High Commissioner urges the Government, the other parties to the conflict and Colombian society to persevere with efforts to promote dialogues for a peace founded on respect for human rights. The Government is encouraged to continue to explore the most appropriate ways of attracting the attention and support of the international community in this respect.

Recommendation No. 4

168. The High Commissioner stresses the overriding importance of the right to life and accordingly calls on the Government and the parties to the conflict most strictly to protect and respect it. The Colombian Government should undertake and pursue investigations into all violations of the right to life, with a view to bringing the culprits to justice and duly compensating the victims, their relatives and their communities.

Recommendation No. 5

169. The High Commissioner reaffirms the obligation of the authorities in preventing internal displacement and attending to all the needs of displaced persons. It is stressed that displaced persons require effective measures to protect their lives, physical integrity, freedom and security and that the Government has an obligation to provide for their nutrition, medical care, housing, education, favourable conditions for their return and proper resettlement alternatives. The High Commissioner recommends the adoption of a comprehensive policy on displacement, the elements of which should be drawn up in accordance with the United Nations Guiding Principles on Internal Displacement.

Recommendation No. 6

170. The High Commissioner urges the authorities to carry out an effective policy for permanently disbanding paramilitary groups by apprehending, trying and punishing those who inspire, organize, lead, belong to, support and finance them. The Colombian Government is also urged to provide the Procurator-General of the Nation with the necessary means to take effective action against such groups throughout the country. The High Commissioner invites the Government to repeal the legislation establishing the Special Vigilante and Private Security Services, formerly known as "Convivir associations", in order to ensure that the State has proper control over the use of force and weapons. Until they are disbanded, the Government is urged to report transparently on the number of such services in existence, their activities and the control measures taken by the Government.

Recommendation No. 7

171. The High Commissioner reminds the Colombian authorities of the fundamental importance of the work and role of human rights advocates as recognized in the Declaration on the Rights and Responsibilities of Individuals, Groups and Organs to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/Res/53/144) adopted by the General Assembly on 9 December 1998. Accordingly, their activities should be

recognized, respected, protected and supported and, in particular, special security measures should be taken to protect their lives, integrity and freedom, and they should receive public support.

Recommendation No. 8

172. The High Commissioner urges the Colombian Government and monitoring bodies to suspend from duty public officials against whom there is reliable evidence of involvement in serious violations of human rights. In cases where such evidence is substantiated in disciplinary or judicial investigations, the Government is urged to dismiss such officials from the service as promptly as in the case of other unlawful conduct.

Recommendation No. 9

173. The High Commissioner reiterates to the Colombian Government the importance of adopting a law criminalizing enforced disappearance in accordance with the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and invites the Colombian Government to ratify the 1994 Inter-American Convention on Forced Disappearance of Persons.

Recommendation No. 10

174. The High Commissioner reiterates to the Colombian Government the importance of reforming the present Military Penal Code and eliminating all provisions incompatible with relevant international norms and recommendations.

Recommendation No. 11

175. The High Commissioner reiterates to the Colombian Government the importance of restoring the conditions for impartial and public proceedings, guarantees of due process, the right to a defence and the presumption of innocence, which are not preserved in the present system of regional justice, and urges it not to continue postponing the abolition of that system. Any prolongation of the present system would be a failure to observe the provisions of international instruments to which the Colombian Government is bound by ratification. The authorities are urged to provide effective protection to members of the judiciary and witnesses. It is urged, in particular, to continue its support of the Human Rights Unit of the Office of the Procurator-General of the Nation.

Recommendation No. 12

176. The High Commissioner invites the Colombian Government to ratify the Statute of the International Criminal Court.

Recommendation No. 13

177. The High Commissioner invites the Colombian Government to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention).

Recommendation No. 14

178. The High Commissioner urges the Colombian Government to take the necessary measures to ensure the exercise of economic, social and cultural rights and accord priority to the gradual reduction of the conditions of inequality prevailing in Colombia. She also recommends that an evaluation be made of the effects of the policies of economic adjustment on the most vulnerable population groups, to ensure minimum conditions of quality of life.

Recommendation No. 15

179. The High Commissioner urges the Colombian Government to use all available resources in carrying out programmes for assistance to and protection of women, especially those in vulnerable situations, and to incorporate the gender perspective in all its national, departmental and local policies.

Recommendation No. 16

180. The High Commissioner reminds the Colombian Government of the need to improve and expand care and social rehabilitation activities and programmes for children in the most vulnerable situations in Colombian society. The Government is also urged to develop and implement programmes to create public awareness regarding the sexual abuse of minors, with a view to eradicating that practice, and to ensure the adoption of the reform of the Juvenile Code in conformity with the provisions of the Convention on the Rights of the Child.

Recommendation No. 17

181. The High Commissioner urges the Government in particular to implement the recommendations made by treaty bodies and special mechanisms of the United Nations Commission on Human Rights, as well as the recommendations made in this and the previous report, and to assume its responsibility in developing strategies and concrete measures to implement, execute or complement those recommendations.

Notes

1/ One example is the place known as "La Secreta", a ranch a few kilometres from the corregimiento of Pavarandó (Mutatá municipality, Antioquia). Since December 1997, the Office and government monitoring bodies have been receiving repeated complaints that this ranch is a camp where the paramilitaries are billeted and preparing their activities. The security forces never intervened, but the FARC attacked it in November 1998, when probably more than 30 persons were killed. Following the attack, the ACCU (Peasant Self-Defence Groups) acknowledged that the ranch served as a camp for its organization, as confirmed by the person in charge of the region, the commander of Army Brigade XVII.

2/ Including Victor Carranza, accused of being one of the country's most powerful paramilitary chiefs; the accused chief of finance of the ACCU,

Jacinto Alberto Soto Toro, who later managed to break out of jail; and Gustavo Adolfo Upegui, president of the Envigado Football Club (Antioquia), who was under investigation for kidnapping, paramilitary activities and drug trafficking and who is suspected of being the paramilitary chief of Medellín.

3/ According to figures from the data bank of the Standing Committee for the Protection of Human Rights, in the first nine months of 1998, there were 1,073 victims of "political murders", a figure which includes both extrajudicial executions and murders in breach of international humanitarian law.

4/ For the first half of 1998 alone, the Office of the People's Advocate reported 119 massacres causing a total of 679 victims. One third of the victims were in the department of Antioquia, followed by the departments of Santander, Cundinamarca, Meta, Valle, Bolivar and Putumayo. One particularly serious aspect of these large-scale murders is that, according to the Office of the People's Advocate, 81 of the massacres were publicly announced by the perpetrators, mostly paramilitary groups.

5/ According to figures from the data bank of the Standing Committee on Human Rights, 176 cases of enforced disappearance were recorded in Colombia in the first nine months of 1998.

6/ In August 1998, the Commander-in-Chief of the Army, General Mario Hugo Galán, submitted a positive conflict of jurisdiction to the Office of the Procurator-General of the Nation in the case of General Fernando Millán Pérez, who was summoned by a prosecutor in the proceedings to investigate the organization of a paramilitary group in the department of Santander. In November 1998, the Supreme Judicial Council settled the conflict by referring the Millán Pérez case to the military criminal courts.

7/ The Colombia Office presented the lack of security as grounds for requesting the transfer of Esteban Cancelado, a human rights advocate who had been detained since 16 April 1997, but the prison authorities did not grant the request. The transfer was finally obtained through an amparo decision by the Constitutional Court on 28 October 1998, which concludes that the "denial (by INPEC) is a violation of the fundamental rights to equality and life".

8/ In the cities, the poorest 10 per cent receives less than 2.2 per cent of total income, while the richest 10 per cent receives more than 39 per cent of total income. These data are taken from the 1998 Human Development Report for Colombia (IDHC), prepared by the Social Mission, the National Planning Department (DNP) and the United Nations Development Programme (UNDP).

9/ The rate of underemployment practically doubled from 12.2 per cent to 20.7 per cent between 1995 and 1998.

10/ According to UNICEF, 1.7 million children between the ages of 12 and 17 work and only 10 per cent are covered by social security. Over 50 per cent work full-time, to the detriment of their overall development.

11/ Twenty per cent aged between 7 and 11 years are not enrolled in primary school and 45 per cent aged between 12 and 17 years do not attend secondary school.

12/ Colombia ratified the Convention on the Elimination of All Forms of Discrimination against Women (19 January 1982) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (15 November 1996).

13/ According to the Forensic Medicine Institute, 83 per cent of the 11,219 cases reported in 1997 were against minors and some of the offences were committed in public institutions and hospitals.

14/ One example is the Emberá-Katio community in the area of the Urrá hydroelectric project, who, at the beginning of October 1998, obtained a court order temporarily halting the work, which was to flood more than 7,000 hectares of their land. On 11 November, the Constitutional Court issued a ruling which, while laying down a set of guarantees and benefits for the local indigenous population, also endorsed the project as such. Earlier, on 25 August, the indigenous leader Alonso Domicó had been murdered, presumably by members of a paramilitary group. Other leaders and advisers were forced to leave the area when death threats were made against them.

15/ In the municipality of Tierralta (Córdoba), a mass displacement of more than 4,000 persons occurred in March and June 1998, and in May 1996, some 4,500 persons were displaced. The municipality thus became one of the most affected by displacement in Colombia, second only to the municipality of Riosucio (Chocó). In addition, beginning in June 1998, the advance of the paramilitary forces on the south of Bolívar, combined with pressure from the guerrillas, resulted in a mass exodus of 8,000 peasants to Barrancabermeja (Santander), and the paramilitary offensive threatens to cause further mass movements to the large coastal towns. Furthermore, the intensified armed conflict in the south-east of the country has produced new flows of displaced persons to Villavicencio (Meta), and from Putumayo to Nariño, Cauca and Huila.

16/ According to CODHES investigations of the country, the main responsibility for forced displacement lies with the members of paramilitary groups, who have been identified as the culprits in 54 per cent of cases, followed by the guerrilla groups who are said to be responsible for 29 per cent of displacements. Members of the security forces are reportedly responsible for 6 per cent of cases. The main victims of both individual and group displacement are peasants and community and political leaders.

17/ This is true of the group of refugees in Panama, who were later repatriated to Bahía Cupica (Chocó). The Office wrote to the Government on numerous occasions drawing attention to the critical nutrition and security situation of these individuals, but no effective measures were taken.

18/ For example, on 28 April 1998, seven leaders of a group of displaced persons who had settled in El Pinal district outside Medellín, in the municipality of Bello (Antioquia), were abducted and later killed by

paramilitary forces. The displaced persons in the settlement of San José de Apartadó, Apartadó municipality (Antioquia), who declared themselves a Community of Peace on 23 March 1997, had 58 of their members killed.

19/ One of the most serious cases has occurred in the south of Bolívar, where displaced persons, after spending three months in Barrancabermeja, returned to their places of origin with a Government undertaking to provide for their safety, as stipulated in an agreement signed by the President of the Republic on 4 October 1998. Two of the leaders and another person involved in the exodus were abducted and subsequently hacked to pieces by a paramilitary group operating in San Pablo (Bolívar). The same group made death threats against all the leaders of the returnees. A paramilitary offensive was subsequently launched against the area, in the course of which a number of massacres took place, followed by further mass displacements.

20/ During the fighting which occurred in the early days of November 1998 in Mitú (Vaupés), FARC guerrillas killed six police officials after these had surrendered and also killed five civilians, whom they accused of supporting the creation of paramilitary groups.

21/ In their attacks on security forces in the municipalities of Mitú (Vaupés) and Miraflores (Guaviare), the FARC made use of hospitals and schools to support their military operations.

22/ On 11 December 1998, for example, the ELN carried out an attack on the offices of the National Highway Institute in Manizales, Caldas, killing one policeman and wounding five civilians.

23/ Thus in La Dorada (Putumayo), members of the FARC killed four health officials, which led the department's Sectional Health Service to suspend its activities. In the course of their attacks on the municipalities of Miraflores (Guaviare) and Mitú (Vaupés), the FARC occupied hospitals, and in the second case used the health facility as a base from which to fire gas cylinders against the police station. The guerrilla force has also made use of ambulances to transport its own fighters, and has looted pharmacies. On 16 July 1998, the ELN shot down the helicopter of the Health Service of the Department of Antioquia.

24/ On 28 May 1998, some armed members of a paramilitary group entered the hospital of Murindó (Antioquia) and took away the director and an employee of the hospital, whom they threatened to kill prior to releasing them.

25/ According to the Office of the People's Advocate, up to 30 per cent of some guerrilla units consists of children, while some paramilitary groups such as the AUC (United Self-defence Groups of Colombia) have actually increased their recruitment of children.

26/ On 18 October 1998, the attack on the Central Pipeline of Colombia in Machuca (Antioquia) caused the death of over 70 persons. Such attacks have also resulted in definite environmental consequences, which have not yet been studied in any detail.